

UNNUMBERED LETTERS ISSUED FOR THE JANUARY OF 2015

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01-16-15	Multi-Family Housing Programs Guidance for Rural Development to Complete Area Market Rent Studies for the Rural Development Voucher Program	S/D
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January 16, 2015

TO: State Directors
Rural Development

ATTN: Multi-Family Housing Directors
Regional Program Support Managers
Rural Development Appraisers

FROM: Tony Hernandez /s/ *Tony Hernandez*
Administrator
Housing and Community Facilities Programs

SUBJECT: Multi-Family Housing Programs
Guidance for Rural Development to Complete Area Market Rent
Studies for the Rural Development Voucher Program

Purpose

The purpose of this Unnumbered Letter (UL) is to provide guidance on the statutory and regulatory requirements to estimate a fair market rental rate for the sole use in estimating the amount to assist the tenants within the Rural Development Voucher Program (RDVP). It provides additional guidance to comply with Rural Development (RD) regulations and for use in rural areas where it is not practicable to use guidance previously issued to determine the comparable market rent for a Section 515 apartment unit. The Area Market Rent Study (AMRS) does not establish a rental rate for a specific property or unit and is not intended to be used as such by the owner of the property that is subject to prepayment or foreclosure and for which an AMRS is being conducted.

Introduction

In fiscal year 2006, the U.S. Department of Agriculture established a demonstration program, the RDVP, as authorized under Section 542 of the Housing Act of 1949, as amended. The purpose in establishing the demonstration program was to assist tenants in their transition into the conventional rental market after owners of Section 515 RD-financed multi-family properties have been discharged of their loan either through prepayment or foreclosure action, prior to the loan's maturity date. Congress' intent was to ease the potential burden on the tenants if rental subsidies ceased to exist and rents were raised in their resident property. The RDVP was intended to supplement the tenant's payment toward rent. To calculate the amount of the

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voucher to offer the tenants, each Section 515 property that is subject to prepayment or foreclosure must have an AMRS performed of the housing market-wide estimates of rents that will provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition.

Below is guidance for the RD Appraiser Staff to follow in providing the AMRS to RD servicing officials.

Implementation Requirements

Section 542 of the Housing Act of 1949, as amended states “the Secretary may provide assistance using a payment standard based on the fair market rental rate established by the Secretary for the area.” Within the Rural Housing Service (RHS), RDVP Notice of Funding Availability, it states that RHS should, “to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable to section 8 housing vouchers.” These requirements are generally based on the housing choice voucher program regulations of the of the U.S. Department of Housing and Urban Development (HUD) set forth at 24 CFR part 982 and for the methodology in estimating Fair Market Rents at 24 CFR part 888.

Implementation Procedures

To implement procedures that are consistent with HUD regulations that are practicable for use in the rural areas supported by RD, the following changes need to be utilized. These changes are necessary as the quantity and quality of rental data in rural areas are not available to the extent found in urban areas.

RD will use the following definition for RD AMRs;

AMRs. The rent, as established by RD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities.

HUD regulations 24 CFR part 888 sets the basis for estimating market rents and describes data sources that are acceptable along with inclusion of any other valid data source.

RD will use the following basis and methodology;

Basis for setting AMRs, AMRs are housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. Adjustments are made to exclude public housing units, newly built units and substandard units.

RD will use the following changes to methodology as described in 24 CFR part 888;

888.113(a) – RD will use a weighted average instead of the 40th or 50th percentile rent as described by HUD, and can consider all rental units of standard quality, not just those that are occupied by recent movers.

888.113(d) – HUDs Fair Market Rent (FMR) areas as described by HUD are typically urban areas. RD staff will determine what geographic area will be considered, including neighboring communities if necessary, to arrive at an AMR that is reasonably supported considering the rural nature of RD financed properties.

888.113(e) - RD may use the data sources as described by HUD, or any other source that they determine applicable.

The following information will be provided by the Servicing Official when requesting the AMRS:

- The address to be used to determine the geographic area of the AMRS
- Unit sizes (by number of bedrooms) requested for AMRS

Any additional information required for the AMRS will be provided with the assistance of the RD staff located in the area that would service the geographic area requested.

The completed AMRS should contain:

- Address that was used to determine the geographic area of the AMRS
- Description of the geographic area that is used in the AMRS
- The AMR for each unit size (by number of bedrooms) requested
- The date of the AMRS
- Name of the person preparing the AMRS

RD weighted average method

As stated in the methodology above, RD will use the weighted average of the rental units to estimate the AMR in the geographic area that applies. The following method will be used;

Data used for example;

- 20 - 2 bedroom apartments that rent for \$450 per month (\$450 x 20 = \$9,000)
- 10 - 2 bedroom apartments that rent for \$425 per month (\$425 x 10 = \$4,250)
- 2 - 2 bedroom apartments that rent for \$400 per month(\$400 x 2 = \$800)

$\$9,000 + \$4,250 + \$800 = \$14,050 / 32 \text{ units} = \439.06 , rounded to the nearest dollar renders an estimated FMR of \$439 for a 2 bedroom apartment.

Requesting an ARMS

Requests by Servicing Officials to have Agency Appraisers perform an AMRS will be processed within the RD Regionalization Hub. The Standard Operating Procedure for the AMRS process can also be found within the Appraiser Service Request tab via the link below:

https://ems-team.usda.gov/sites/RD_rHUB/pss/assign/default.aspx

This guidance in this Unnumbered Letter supersedes all previous issuances. The RDVP Guidebook will be revised to conform to the AMRS guidance. For additional guidance concerning the AMRS procedures described above, please contact Thomas Ale, National Office Appraiser at (202) 720-1620. For RDVP assistance, please contact Joan Atkinson, Finance and Loan Analyst at (813) 752-1474, extension 103.

January 16, 2015

TO: State Directors
Rural Development

ATTN: Program Directors and Coordinators
Multi-Family Housing

FROM: Tony Hernandez /s/ *Tony Hernandez*
Administrator
Housing and Community Facilities Programs

SUBJECT: Management of Loan Payoffs for the Multi-Family Direct Loan Portfolio

This Unnumbered Letter (UL) clarifies the management of loan payoffs, and replaces in part, the UL issued May 14, 2012, titled “Prepayment Clarifications and Related Issues”. Borrowers seeking to *prepay* their loan(s) are governed by 7 CFR §3560.653(a). Issues related to prepayment incentives, transfers, completion of the Prepayment Incentive Calculation Worksheet, and the Preservation Tracking and Concurrence system, will be addressed in a separate issuance.

This UL will address Section 514 and Section 515 loans and describes actions to be taken if the loan is in a payoff status due to one or more of the situations identified below. The National Office will periodically post to the Multi-Family Information System (MFIS) SharePoint site a link to the “List of MFH Projects – Remaining Terms”. This will comprise a list of those properties identified with loans scheduled to payoff ahead of their regular payment/amortization schedule and/or those that will be reaching their natural maturity date. Upon issuance of this UL, it is advised that Agency staff review this list and identify any properties that may have 25 or fewer months remaining before the loan is expected to be paid in full. Servicing Officials should review this list annually and take appropriate action with regard to such borrowers. The list can be found at: <https://rd.sc.egov.usda.gov/teamrd/hcftp/mfh/MultiHousing%20Family%20Information/Forms/AllItems.aspx>. State Office and Field Office staff may also review the RC 545 Report, “Analysis of Delinquent Loan Receivable Accounts All Projects AMAS”, to determine if the unpaid balance/installment is fewer than 25 installments.

Loan status may consist of A) loans in early payoff status due to: the application of “extra payments”, as defined; or the application of regular payments, resulting in “early payoff” prior to the loan maturity date as identified in the Borrower’s Promissory Note; or B) final payoff of loans that have reached their natural maturity date.

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A. Early Payoff Status

I. Extra payments.

Offices may encounter instances in which a borrower's account reflects a final payment on the loan due prior to the maturity date as a result of "extra payments" being applied. Circumstances which may have created this situation include:

- Proceeds from partial sale of property secured by Rural Development per 7 CFR §3560.54(a)(11)(ii).
- Remission to the Agency of any fees collected in excess of operating expenses to the loan account as an extra loan payment under 7 CFR §3560.53(e)(2).
- Application of surplus funds to reduce the debt service on the borrower's loans per 7 CFR §3560.306 (d)(2).

II. Borrowers Paid "Ahead of Schedule".

There are instances in which annual installment borrowers submit their payments on a monthly payment schedule (seen typically in Off-Farm Labor Housing accounts), and/or other instances where application of a Borrower's regular monthly installment results in a "paid ahead" schedule. Both may result in "early payoff" of the debt.

B. Final Payoff Status

I. Loan/Note Naturally Maturing.

These are accounts which have reached their natural maturity based on the maturity date in the Promissory Note and the loan's amortization schedule.

For those Borrowers whose loans have reached early payoff status, prior guidance remains valid that Servicing Officials should re-amortize the remaining principal balance only up to the date of maturity in the Promissory Note. Borrowers with 25 or fewer months remaining until the loan maturity date should be contacted and provided with RD Form 3560-15, "*Re-amortization Request*". In no case should the Agency accept a final payment from Borrowers in this status, if it would result in a prepayment of the mortgage prior to the maturity date in the Note. Servicing Officials should contact the National Office for further guidance on handling these loan accounts.

Borrowers whose loans are in final payoff status and are expected to mature on the maturity date stated in the Promissory Note will be considered to have met their obligation and the loan(s) will be retired. Upon retirement, interest credit and/or Rental Assistance (RA) subsidies will end. Borrowers should also be reminded that a final loan payment must include repayment of all outstanding obligations to the Agency.

Servicing Officials will provide the letter in Attachment A to Borrowers identified with 25 or fewer months remaining until the maturity date, whether the loan is identified as in "early" or "final" payoff status. This letter advises Borrowers of the impact on the project and requires tenant notification of potential implications of mortgage payoff.

If you have any questions or comments, please contact Laura L. Horn at (386) 328-5051, extension 100, or via e-mail at laura.horn@wdc.usda.gov.

Attachment

RE: Project>ID>Loan #

Dear *[insert name of borrower]*:

We are writing to notify you that a review of your loan account(s) has been completed.

Your loan(s) is evidenced by a Promissory Note and/or Assumption Agreement received by you through the Rural Housing Service, USDA. One of the following situations applies to your loan(s):

(___) Your loan is expected to 'payoff' prior to the maturity date in the Promissory Note and/or Assumption Agreement within 24 months, but not less than 12 months.

Or

(___) Your loan is expected to reach maturity on _____(Date)_____ as identified in the Promissory Note and/or Assumption Agreement(s).

If your loan is expected to reach maturity prior to the date in the Promissory Note, whether due to extra principal payments applied to the account, the application of regular monthly installments on an annual installment note, or installments which have resulted in an "Ahead of Schedule" status, the Agency will allow the borrower, if requested, to re-amortize the remaining balance on the account to the date of maturity in the Promissory Note. This action will eliminate an early payoff of the loan. Servicing Officials will be in contact with you to process your re-amortization request.

You must notify the tenants in the subject property that the Rural Development (RD) mortgage will be fully paid on a-date certain. Such notification must occur:

- 1) Immediately if the date of maturity is less than 12 months from this notice; **or**
- 2) No later than 12 months prior to the date of maturity.

The notice to tenants must include:

- Expected date of mortgage maturity;
- Information that the end of the RD mortgage will result in the end of Rental Assistance (RA) subsidy.
- Information regarding any potential rent increase that may be instituted after the loan is paid off.
- Tenants receiving RA should be informed that they may be able to transfer their RA to another RD property to which they move. Tenants have up to 4 months after mortgage payoff to use this RA.
- Location and contact information about other RD properties in the county or locality. Your RD Servicing Office can provide you with this information.
- Information about other housing subsidies that may be available through Federal, State or local resources, to include contact information for such agencies.

RD is available to assist you in explaining mortgage payoff implications to your tenants, or providing information to help them make informed decisions. Our office address and telephone number is: *[insert address and telephone number]*

Sincerely,

[Signature and title of Official]